

CHAPTER NO. 25

HOUSE BILL NO. 65

INTRODUCED BY UHDE

BY REQUEST OF THE DEPARTMENT OF PUBLIC SERVICE REGULATION

IN THE HOUSE

January 4, 1979	Introduced and referred to Committee on Highways and Transportation.
January 6, 1979	On motion, joint rule 6-6 suspended and sponsor's signature allowed to be added to Pre-Filed bill.
January 16, 1979	Committee recommend bill do pass and be placed on Consent Calendar. Report adopted.
January 17, 1979	Printed and placed on members' desks.
January 19, 1979	Third Reading Consent Calendar passed. Transmitted to Second House.

IN THE SENATE

January 20, 1979	Introduced and referred to Committee on Highways and Transportation.
January 29, 1979	Committee recommend bill be concurred in and placed on Consent Calendar. Report adopted.
February 1, 1979	Consent Calendar discussion.
February 2, 1979	Consent Calendar concurred in.

IN THE HOUSE

February 5, 1979

Returned from Second House.
Concurred in.

Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 65

INTRODUCED BY _____

BY REQUEST OF THE DEPARTMENT OF PUBLIC SERVICE REGULATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 69-12-321, MCA, TO MAKE THE SECTION APPLICABLE TO APPLICATIONS BY CLASS D CARRIERS AND TO REQUESTS FOR TRANSFERS OF AUTHORITY AND TO CLARIFY THE HEARING REQUIREMENTS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-12-321, MCA, is amended to read:

"69-12-321. Hearing on application for motor carrier certificate. (1) Upon the filing of such application by a Class A, Class B, or Class C, or Class D motor carrier, except a Class C motor carrier authorized to operate under the terms of a contract with the United States government, or an agency or department thereof, or upon the filing of a request for a transfer of authority, the commission shall fix a time and place for hearing thereon, ~~which shall not be less than 10 days or more than 60 days after the filing whenever a protest or a request for a hearing is received.~~ The hearing is to be set for a date not later than 60 days after receipt of a protest or a hearing request by the commission. Whenever no protests or hearing requests are

received, the commission may act on the application without a hearing as prescribed by commission rules.

(2) Any motor carrier or railroad company referred to in 69-12-322, the department of highways, the governing board or boards of any such county, town, or city into or through which the route or service as proposed may extend, and any person or corporation concerned are hereby declared to be interested parties to the proceedings and may offer testimony for or against the granting of the certificate.

(3) The contracting parties referred to in 69-12-313(4) must appear and offer testimony in support of the applicant.

(4) However, an application by a Class A, Class B, or Class C, or Class D motor carrier for a certificate may be disallowed without a public hearing thereon when it appears from the records of the commission that the route or territory sought to be served by the applicant has previously been made the basis of a public investigation and finding by the commission that public convenience and necessity do not require the proposed motor carrier service unless it is made to affirmatively appear in the application by a recital of the facts that conditions obtaining over the route or in the territory and affecting transportation facilities therein have materially changed since said public investigation and finding and that public convenience and

LC 0309/01

1 necessity do now require the motor carrier operation."

-End-

Approved by Committee
on Highways & Transportation

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HB 0065/02

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1 necessity do now require the motor carrier operation."

-End-

January 16, 1979

The House Committee on Highways and Transportation convened in Room 20 of the Capital Annex on Tuesday, January 16, 1979, at 1:30 p.m., with Chairman Baeth presiding and fifteen members present. Absent was Representative Fedak.

Chairman Baeth opened the meeting to a hearing on HB 55.

HOUSE BILL 55 REPRESENTATIVE JACK UHDE, the chief sponsor, introduced the bill. He said the bill is by the request of the Public Service Commission and is to clarify the conditions under which Class C carriers are considered to be operating as Class B carriers. He said this bill is for the protection of the Class B carriers as Class B carrier rates are regulated under the Public Service Commission while Class C rates are not. This bill regulates the number and length of the contracts of a Class C carrier.

WAYNE BUDT, Montana Public Service Commission, spoke in support of the bill. He said the bill specifies that if a Class C carrier has more than six contracts and each contract is for more than 180 days he would be considered to be a Class B carrier and would come under the Public Service Commission regulations. A copy of his testimony is exhibit 1 and part of the minutes.

During questions from the committee Representative Lien asked Mr. Budt what kind of haulers fall under the Class C classification. He said since a major concern of his in his district is independent livestock and grain haulers, he wanted to know if this bill would adversely affect them. Mr. Budt responded that grain haulers are unregulated and livestock haulers are under the Class B classification. Mr. Budt said a Class C carrier could be a hauler of almost any product: petroleum, coal, logs, meat, etc. The distinction being that he hauls it under contract for a specific mine(s) or company(ies), while a Class B carrier holds himself out to serve all parties who request service. Rep. Fabrega questioned what the purpose was for being classified as a C. Mr. Budt responded that some carriers do not want to file rates with the PSC. They deal with a small number of people and arrangements are made privately between them. Under Class B a tariff is set up and charged to all. He said as far as license fees are concerned he was not aware of any difference between the two carriers. He said the bill was to keep the Class C carriers from being in competition with the Class B carriers.

Chairman Baeth closed the hearing on HB 55 and opened it to HB 65.

HOUSE BILL 65 REPRESENTATIVE JACK UHDE, the chief sponsor, said this bill is also by the request of the Public Service Commission, and its purpose is to include Class D carriers

in this section of the law, and it provides that if there are no objections to an application for a motor carrier certificate no hearing would need to be held.

WAYNE BUDT, Montana Public Service Commission, was the next proponent speaker. He said the bill is to eliminate the need for hearings on unprotested authority applications, and to insert Class D into the statute as a matter of housekeeping as the Class D designation was approved by the 1977 Legislature. He said the reasons for the bill is to reduce applicant expense and to reduce hearing and travel expense for the Commission.

LARRY HUSS, Montana Motor Carriers, was the next proponent speaker. He said this could save a small carrier from the useless and burdensome expense of having to hire a lawyer and the other attendant expenses for a hearing and so a good idea. He said the first part about including Class D carriers would correct an oversight.

WILLIAM J. OPITZ, Montana Public Service Commission, spoke next as a proponent. He said in December of 1978 the Commission conducted a hearing on a taxicab PC&N in Hardin. There were no opponents to the PC&N but still the Commissioner and a court reporter spent two days traveling to Hardin to conduct a fifteen minute hearing. He said the Commission unanimously supports the passage of HB 65.

As there were no questions from the committee members, Chairman Baeth closed the hearing on HB 65 and opened the meeting to a hearing on HB 66.

HOUSE BILL 66 REPRESENTATIVE MIKE COONEY, the chief sponsor, said this bill was at the request of the Public Service Commission. He said it is to change from 90 days from filing to 60 days from the hearing the time period when the commission must issue a decision on a motor carrier certificate application.

WAYNE W. BUDT, Montana Public Service Commission, spoke as a proponent. He said this would give time for the transcript to be prepared and time to file briefs by the applicant and the protestant. He felt sixty days would be a fairly good time and he was hopeful the Commission could operate within this time period.

LARRY HUSS, Montana Motor Carriers, spoke as an opponent. He said the current time period is usually ignored and it usually takes about six months or longer and that these delays are at times occasioned by the carriers themselves. He said one of the important factors in going from the filing rather than the hearing date is that you have a starting point. He felt 90 days from the filing

date was insufficient time for the PSC and suggested an amendment that would make it 180 days from the date of completed filing. He felt they could follow that and it would also give the PSC time to do their work. A copy of his suggested amendments is exhibit 2 of the minutes.

During the questions from the committee, Rep. Lien asked the Public Service Commission representatives how they felt about the suggested amendment. Mr. Opitz said the commission could support the adoption of the amendment but he felt a specific waiver provision, stating "at the request of the applicant the time period could be extended," should be granted to the commission in the event of unforeseen problems in accomplishing the task. He said this could prevent the commission from acting negatively to a request and the applicant having to refile and pay another filing fee.

Chairman Baeth closed the hearing on HB 66 and opened the meeting to a hearing on HB 67.

HOUSE BILL 67 REPRESENTATIVE MIKE COONEY, the chief sponsor, said this bill was at the request of the Public Service Commission and would clarify the statutes to the fact that supervisors of motor carriers have the authority to check papers relating to drivers (log books, medical certificates). He said this was basically for safety purposes.

WAYNE BUDT, Montana Public Service Commission, spoke as a proponent. He said they already feel they have the authority to check these items now but this bill would clarify the fact that drivers are covered.

During the questions from the committee, Rep. Tropila asked how many extra FTEs this would require. Mr. Budt assured him that no more would be needed. Rep. Tropila questioned the clearness of the wording as to the inspections. He felt the PSC might be becoming involved with work intended for the Highway Patrol. Chairman Baeth said he would have the lawyer assigned to the committee check on this bill to be sure it says what it is claimed to say.

Chairman Baeth closed the hearing on HB 67 and opened the meeting to an executive session.

EXECUTIVE SESSION

HOUSE BILL 55 Rep. Tropila moved that HB 55 do pass. The bill passed unanimously with those present. Rep. Cooney moved that since the bill had received a unanimous vote to have it put on the consent calendar. This motion also passed unanimously.

HOUSE BILL 65 Chairman Baeth asked for action on this bill.
Rep. Keyser moved do pass. The motion carried
unanimously with the members present. Rep. Cooney moved that
this bill be put on the consent calender. This motion passed
unanimously with those present.

Rep. Tropila moved that the meeting adjourn. Meeting adjourned
at 2:15 p.m. Chairman Baeth announced the next meeting would
be at 1 o'clock on Thursday, January 18.

RESPECTFULLY SUBMITTED,

William R. Baeth
WILLIAM R. BAETH, Chairman

Emelia Satre, Secretary

MINUTES OF THE MEETING
HIGHWAYS AND TRANSPORTATION COMMITTEE
MONTANA STATE SENATE

January 27, 1979

The ninth meeting of the Highways and Transportation Committee was called to order by Chairman Mark Etchart on the above date in Room 410 of the State Capitol Building at 1:30 p.m.

ROLL CALL: All members of the committee were present, with Senator Kolstad excused.

CONSIDERATION OF SENATE BILL 154: Senator Manning is the chief sponsor of SB 154. It is an act to revise and clarify and transfer to the Highway Patrol Chief certain duties and powers of the Division of Motor Vehicles.

Larry Majerus spoke on behalf of this bill telling the committee the whole purpose of this bill was to specifically define power of the chief of the Highway Patrol. Change "division" to Chief. It is a housekeeping bill.

Chairman Etchart asked if there were any questions from the committee in regard to Senate Bill 154. There being no questions, the hearing was closed.

CONSIDERATION OF HOUSE BILL 65: Chief Sponsor of HB 65 is Representative Uhde who told the committee this bill is an act to amend section 69-12-321, to make the section applicable to applications by Class D Carriers and to requests for transfers of authority and to clarify the hearing requirements.

Chairman Etchart asked if there were any other proponents to House Bill 65.

Wayne Budt from the Montana Public Service Commission told the committee he supports this bill. See "Exhibit A" for his testimony.

Chairman Etchart asked if there were any other proponents to House Bill 65. William J. Opitz from the Montana Public Service Commission told the committee that the five member Commission unanimously supported the passage of HB 65.

Chairman Etchart asked if there were any other opponents to HB 65. If there were any questions from the committee.

Senator Hager wanted to know if there would be any opposition.

Wayne Budt told the committee there would be a notice sent out to all carriers and then with a specified date. Then, if there is protest, it will go to a short form hearing.

Chairman Etchart asked the Committee if there were any further questions on HB 65. There being none the hearing was closed.

CONSIDERATION OF HOUSE BILL 55: Representative Uhde is the chief sponsor of this bill. It is an act to amend section 69-12-302 to clarify the conditions under which class C carriers are considered to be operating as Class B carriers. The bill strikes old language out of the law and adds one condition. For Class B contracts, set rates. This bill is designed to keep it so Class C Carriers cannot infringe upon Class B Carriers. It limits contracts and length of time.

Chairman Etchart asked if there were any proponents of HB 55. Wayne Budt from the Montana Public Service Commission. He told the committee the big difference we are talking about is Class B Carriers. He serves anybody who requests it. Class C, what this bill does is make sure that a Class C Carrier does not take all the cream off the top and leave the other carriers with the poorer jobs.

Chairman Etchart asked if there were other proponents. There were None. There were no opponents.

Senator Hazelbaker asked Mr. Budt if this included house movers.

Mr. Budt told Senator Hazelbaker that this bill eliminates house movers. He told the committee it is hard to write a tariff on every type of house that going to be moved.

Chairman Etchart asked about the word under, on Page 1, Line 23 of HB 55, as the meaning is not clear. Dave Cogley told him it was OK and explained it. Senator Hager suggested striking the word under and putting with, as this would not change the meaning and would be more understandable. Senator Regan said she thought the danger with the word under is for those who are not knowledgeable of the subject. She thought the suggestion from Senator Hager of striking under and inserting with would be clearer.

ACTION ON HOUSE BILL 55:

Senator Hager made the motion to strike the word under on Page 1, Line 23 of HB 55 and insert the word with in its place. Mr. Budt said this would be acceptable with the PSC. Senator Hazelbaker seconded the motion. The motion was carried unanimously.

Senator Hager made the motion to place HB 55 DO PASS as amended on the consent calendar. Motion carried unanimously. Senator Hager will carry HB 55.

ACTION ON HOUSE BILL 65: Senator Hager made the motion to DO PASS HOUSE BILL 65. Senator Graham seconded the motion. The motion carried unanimously.

Senator Hager made the motion to place HB 65 on the consent calendar. Motion carried unanimously. Senator Hazelbaker will carry bill.

ACTION ON SENATE BILL 154: Senator Manning made the motion to DO PASS Senate Bill 154. The motion carried unanimously.

Senator Manning made the motion to place Senate Bill 154 on the Consent Calendar. The motion carried unanimously.

Senator Manning will carry this bill.

ACTION ON HOUSE BILL 4: Senator Hager made the motion that House Bill 4 DO PASS. The motion carried unanimously.

Senator Hazelbaker made the motion to place House Bill 4 on the consent calendar. The motion carried unanimously. Senator Healy will carry this bill.

ACTION ON SENATE BILL 179: Senator Hager made the motion to DO PASS Senate Bill 149. Senator Manning seconded the motion. The motion to DO Pass Senate BILL 179 carried unanimously.

Senator Hager made the motion to place Senate Bill 179 on the Consent Calendar. Senator Graham seconded the motion. The motion carried unanimously.

ACTION ON SJR 7: The committee discussed SJR 7 and decided to have Senator Hazelbaker talk to Senator McCallum, chief sponsor of the bill, to see about an interim study. They suggested a Senate Resolution direct to the Highway Department, that would serve the purpose just as well. Senator Hazelbaker will get together with Senator McCallum and Shaun Simon and report back to the Committee on Tuesday, 1-30-79.

ACTION ON SB113: Senator Healy had to leave and requested his vote be affirmative on SB113. Dave Cogley from the Legislative Council went over the list of amendments, see Exhibit "B". He told the committee in reference to PAGE 93, Line 12, there are two other laws dealing with junk vehicles. One is the county recycling law. They can pick up cars upon the request of private people. This particular section you are talking about, in reference to that I got the 1967 bill out and the intent was to take private property out of the bill. If you wanted to write a law that would say what it was originally, we could do that. But there should be a separate law from the Code Commission Bill. This bill is a clean-up bill and not to change the meaning.

Senator Hager said he would get together with Mr. William Romine, and come up with something to write a new law.

PAGE 4

Dave Cogley finished going over the sheet of amendments.

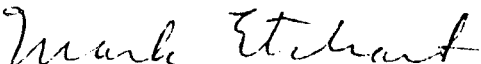
Senator Hager made the motion that we DO PASS SB 113 with all the amendments. Senator Graham seconded the motion. The motion was carried unanimously.

OTHER BUSINESS: Chairman Etchart announced the next meeting of the Highways and Transportation Committee would meet at 12:30 in Room 410 of the State Capitol Building on Tuesday, Jan. 30, 1979.

Senate Bill 196 was set for hearing on Thursday, February 1, 1979.

Senate Bill 251, House Bill 18, and House Bill 28 were set for hearing on Tuesday, January 30, 1979.

There being no further business, the meeting adjourned at 2:30 p.m.



CHAIRMAN MARK ETCHART

cf

NAME: William J. Opitz DATE: 1/27/79

ADDRESS: 2 Wood Ct. Helena

PHONE: 449-3007

REPRESENTING WHOM? Mont PSC

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: The five member Commission unanimously support the passage of HB.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: William J. Opitz DATE: 1/27/79

ADDRESS: 2 Wood Ct. Helena

PHONE: 449-3007

REPRESENTING WHOM? Mont. PSC

APPEARING ON WHICH PROPOSAL: HB 55

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS: The five member Commission unanimously
support the passage of HB-55.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME :

DATE : _____

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU :

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Exhibit "A"

NAME: Wayne Budt DATE: 1/27/79

ADDRESS: 1227 11th Ave

PHONE: 449-2549

REPRESENTING WHOM? Mont Public Service Comm

APPEARING ON WHICH PROPOSAL: HB55 and HB65

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS: Attached

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Wayne Budt

H B 55

Bill to specify the number and length of contracts a Class C (contract carrier) may operate under in any given year. The method in which these contracts will be filed with the Public Service Commission.

Reasons:

1. Commission can ^{certify} ~~earify~~ that contract carriers are not operating as common carriers.

Definitions:

Common Carrier :

Holds himself out to serve all parties who request Service.
(rates are regulated by the Public Service Commission).

Contract Carrier:

Serves a company under specific contract for that company
(rates are not regulated by the Public Service Commission).

H B 65

Wayne Beed

Bill to eliminate the need for hearings on unprotested authority applications. Insert Class D into statute as a matter of housekeeping (Class D designation approved by 1977 Legislature).

Reasons: 1. Reduce Applicant expense.

2. Reduce hearing and travel expense for the Commission

DATE 1/27

COMMITTEE ON

BILL NO.

7 AB 56

VISITOR'S REGISTER

[illegible]

SENATE COMMITTEE Highways & Transportation

Date 1-27-79 ^{House} Bill No. 55 Time _____

NAME <u>Highways</u>	YES	NO
Mark Etchart, Chairman	✓	
Tom O. Hager, ✓ Chairman	✓	
Frank W. Hazelbaker	✓	
Allen C. Kolstad <i>absent but excused</i>		
Carroll A. Graham	✓	
Dave Manning	✓	
John E. Healy	✓	

Carl Fraser
Secretary

Mark Etchart
Chairman

Motion: Strike "under" on Page 1, Line 23 & insert
in its place. "with". Place on
Consent Calendar

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE Highways & Transportation

Date 1-27-79 ^{House} Bill No. 65 Time _____

NAME	YES	NO
Mark Etchart, Chairman	✓	
Tom O. Hager, V. Chairman	✓	
Frank W. Hazelbaker	✓	
Allen C. Kolstad		
Carroll A. Graham	✓	
Dave Manning	✓	
John E. Healy	✓	

Carl Frasier
Secretary

Mark Etchart
Chairman

Motion: DO Pass + Put on
consent calendar

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE Highways & Transportation

Date 1-27-79 Senate
Bill No. 154 Time _____

NAME	YES	NO
Mark Etchart, Chairman	✓	
Tom O. Hager, /Chairman	✓	
Frank W. Hazelbaker	✓	
Allen C. Kolstad		
Carroll A. Graham	✓	
Dave Manning	✓	
John E. Healy	✓	

Carol Fraser
Secretary

Mark Etchart
Chairman

Motion: DO Pass & place on
consent calendar

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE Highways & Transportation

Date 1-27-79 House Bill No. 4 Time _____

NAME	YES	NO
Mark Etchart, Chairman	✓	
Tom V. Hager, Chairman	✓	
Frank W. Hazelbaker	✓	
Allen C. Kolstad		
Carroll A. Graham	✓	
Dave Manning	✓	
John E. Healy	✓	

Carol Frasier
Secretary

Mark Etchart
Chairman

Motion: Do Pass & place on
Consent Calendar

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE Highways & Transportation

Date 1-27-79 Senate
Bill No. 179 Time _____

NAME	YES	NO
Mark Etchart, Chairman	✓	
Tom V. Hager, Chairman	✓	
Frank W. Hazelbaker	✓	
Allen C. Kolstad		
Carroll A. Graham	✓	
Dave Manning	✓	
John E. Healy	✓	

Carl Fossier
Secretary

Mark Etchart
Chairman

Motion: Do Pass & Place on
Consent Calendar

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE Highways & Transportation

Date 1-27-79 Senate
Bill No. 113 Time _____

NAME	YES	NO
Mark Etchart, Chairman	✓	
Tom V. Hager, Chairman	✓	
Frank W. Hazelbaker	✓	
Allen C. Kolstad		
Carroll A. Graham	✓	
Dave Manning	✓	
John E. Healy	✓	

Carol Frasier
Secretary

Mark Etchart
Chairman

Motion: Do Pass with attached amendments

(include enough information on motion--put with yellow copy of committee report.)

AMENDMENTS TO SB 113

1. Title, line 7.
Strike: "31-167,"

2. Page 15, line 15.
Following: "traffic."

3 + 4 on yellow) Insert: "For the purpose of part 2, chapter 8, of this title, the term also includes "flag person" as defined in 61-1-411."

5 3. Page 68, line 7.
Following: "the"
Strike: "basic rule"

6 4. Page 68, line 17.
Strike: "as nearly as possible"
Insert: "at least"

7 5. Page 97.
Following: line 10
Insert: "Section 99. Section 61-5-405, MCA, is amended to read:

"61-5-405. Offenses furnishing ground for suspension or revocation of license. (1) Items enumerated in Article IV(1), subsections (a), (b), (c), and (d) of 61-5-401 refer specifically to 45-5-103, 45-5-104, 61-8-401, 45-2-101(5), and 61-7-103, respectively.

(2) In addition to convictions mentioned above the division, for the purpose of suspension, revocation, or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported as it would if such conduct had occurred in this state for:

(a) convictions of perjury or the making of a false affidavit relating to the ownership or operation of a motor vehicle (61-5-303); and

(b) three convictions of reckless driving committed within a period of 12 months (61-8-301)."

Renumber subsequent sections

8 6. Page 97, line 13.
Strike: "31-167,"

7. Page 25, line 8
strike: subsection (e) in its entirety

~~8. Page 27, line 13 + 14
strike: and line 13
insert: motorcycle, line 14~~

11K
see